



**US Army Corps  
of Engineers®**  
New England District

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## **NATIONAL ENVIRONMENTAL POLICY ACT**

The National Environmental Policy Act, 42 U.S.C.4321 et seq., (NEPA) was the first law to focus environmental concerns within a comprehensive national policy. NEPA requires Federal agencies to:

“include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on –

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long- term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.”

Additionally, the Council on Environmental Quality (CEQ) issued regulations in 1981 for implementing the procedural provisions of NEPA (40 CFR Parts 1500-1508.).

Permits being issued by the Corps of Engineers under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act are considered “major Federal actions”.

Prior to issuing a permit, the Corps must prepare either an Environmental Assessment and a “Finding of No Significant Impact” (FONSI) or, determine that an Environmental Impact Statement is necessary.

Corps of Engineers regulations, Appendix B, 33 CFR Part 325, for implementing NEPA provides the specifics as to how the Corps complies with the requirements of NEPA. These regulations require that the Corps look at a broad range of alternatives from a public interest perspective. The Corps considers alternatives that are practical and feasible based upon the project purpose. This does not include costly evaluation of remote or speculative alternatives.

Once a determination is made that an EIS is required, this is announced in the Federal Register with the public comment period and hearing date to invite comments regarding the scope of the EIS. Government agencies, which may also have an advisory or regulatory role, are invited to be cooperating agencies. These agencies are consulted as the draft EIS is being developed and provide comments to the NEPA documents as they are published. When the draft EIS is published, another public hearing is held and the public is again invited to comment. Comments are then addressed in the Final EIS. The final permit decision is made in the subsequent Record of Decision.